

SENATE CHAMBER,
AUSTIN, TEXAS, Thursday, February 9, 1871. }

Senate met pursuant to adjournment; Hon. Don Campbell, President, in the chair.

Roll called; quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

The Secretary carried to the House House joint resolution No. 14, "asking the Congress of the United States to pass a bill for the construction of a railroad from the eastern boundary of Texas to the Pacific Ocean, on or near the thirty-second parallel of latitude, and to grant the same aid for the construction of this railroad that has been granted to secure the building of the Northern Pacific Railroad," the Senate having passed the same.

PETITIONS AND MEMORIALS.

By Senator Bowers: Petition from citizens of San Saba county.

Read and referred to Committee on State Affairs.

By Senator Pridgen: Memorial of the citizens of the counties of Victoria and Refugio, asking the formation of the county of Baker out of the territory herein described.

Read and referred to the Committee on Counties and County Boundaries.

Message from the Governor by his Private Secretary.

EXECUTIVE OFFICE,
AUSTIN, February 8, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: In obedience to the resolution of the Senate, adopted on the seventh instant, and calling for "any information in my possession, respecting acts of lawlessness and crime which may have occurred during the present year in the counties of Hill and Walker, respectively; and also what action, if any, has been taken by me in the premises."

I have to report as follows:

HILL COUNTY.

The disturbances in Hill county were first specially called to my attention in September last, when Lieut. Williams, of the State Po-

lice, returned from an unsuccessful attempt to arrest certain desperadoes in that county.

I enclose herewith the report of the Adjutant General, concerning these disturbances, which, with the accompanying copies of reports, telegrams and letters, numbered from one to fifteen inclusive, will present to the Senate a complete statement of the causes which led to the proclamation of martial law in Hill county, and the proceedings that have been had thereunder.

Lieut. Williams' report, dated November 4, 1870, was first made verbally to me in September, and it caused me to write the letter dated October 3, 1870, to the sheriff and citizens of that county. In regard to Hill county, I have only to state further, that the murder of the colored man and woman, near Clifton, in Bosque county, mentioned by the Adjutant General, (and the pursuit of whose murderers, was the immediate cause of the difficulty in Hill county, which brought on martial law,) has not been surpassed in atrocity by any similar deeds of the savages on the frontier. It is feared, however, that the lawless conduct of J. J. Gathings, and the mob accompanying him, has secured the escape of the murderers.

WALKER COUNTY.

The disturbances in Walker county commenced during the late session of the District Court in that county, in January. A colored man by the name of Jenkins had been badly beaten, and he went before the grand jury to make a statement of the facts. A few days afterwards his dead body was found near Huntsville, the county seat, and it presented unmistakable signs that he had been foully murdered. Capt McNally, of the State Police was sent into the county with a small squad of police to make investigation and arrest the guilty parties. He soon acquired information which warranted the arrest of four persons: Nat. Outlaw, John McParrish, Fred Parks and Jo. Wright, and they were brought before the Hon. J. R. Burnett, Judge of the District Court, for examination. The judge, after full hearing, concluded that the evidence against Nat. Outlaw, John McParrish and Joseph Wright was sufficient to warrant their commitment without bail. As soon as the decision of the judge was delivered, the prisoners, who had somehow secretly procured arms, and their friends, of whom a number were present, commenced firing on Capt. McNally and his police, and on the judge and other officers of the court. McNally and one of his men and the sheriff were wounded. McNally was shot down, but he and his men maintained a fire which enabled them to retain one prisoner, outlaw, but the other two were carried off by the mob, and are still at large.

My information of this high handed act, comes partly from the Judge, Hon. J. R. Burnett and District Attorney W. E. Horn, who conducted the examination. I herewith transmit copies of letters and a telegram from the judge, and of an official report from the district attorney; also of a letter and telegram from myself to the judge, and a telegram from Col. Gibbs of the seventh inst., marked from A to G inclusive.

These enclosures will give the Senate a full understanding of the present condition of Walker county.

I am not aware that the history of the United States, or in fact of any country where the English language is spoken, presents a parallel to this Walker county affair, for overbearing lawlessness. While, doubtless, many of the citizens of that county deprecate the act, they all stood by supinely, or actively aided the attack upon the judge and officers of the law, while engaged in the exercise of their legitimate authority and sworn duty. It is greatly to be regretted that the people of any part of our State, do not see that it is their true interest, without regard to the question of duty, to put a stop to such lawlessness.

The impression created abroad, by this act, must damage the future prosperity of that county in a variety of ways.

In conclusion I have to state that I am preparing to send troops into Walker county, and that martial law will be proclaimed therein, the guilty parties arrested and punished, if to be found, and the cost assessed upon the people of the county.

Very respectfully,

EDMUND J. DAVIS,

Governor.

Senator Pickett moved that the message of the Governor, and accompanying documents, be referred to a select committee of five.

Lost.

Senator Ruby moved to refer them to the Committee on Militia.

Lost.

Reading was called for as follows:

ADJUTANT GENERAL'S OFFICE,

STATE OF TEXAS,

AUSTIN, February 1, 1871.

To his Excellency.

EDMUND J. DAVIS,

Governor of Texas:

GOVERNOR: I have the honor to submit the following report in relation to the recent disturbances in Hill county:

On the twenty-sixth of December, 1870, a freedman and his wife

were foully murdered in the vicinity of Clifton, Bosque county. On the morning of the twenty-seventh, the coroner's inquest rendered a verdict to the effect that the double murder had been committed by Solloela Nicholson and James Gathings, residents of Hill county.

Lieutenant W. T. Pritchett, State Police, who was present at the inquest, immediately concentrated a portion of his command and proceeded to the house of a person called Col. J. J. Gathings, in Hill county, for the purpose of arresting the parties.

Having received what he deemed reliable information, that the criminals were concealed in Gathing's house, he requested permission to search the premises, which was refused by Gathings, with the remark, "you cannot search my house with your damned negro police," threatening if he attempted to do so, it would be at the risk of his life. Lieutenant Pritchett proceeded to make the search, but failed to find the criminals, who, it is believed, escaped from the house during the controversy, as they were seen entering the premises about one hour before he arrived.

In further prosecuting the search after these men, Lieut. Pritchett and his detachment had proceeded about a mile from Gathings, where they breakfasted, and having sent four (4) of his men ahead, he again took the road. Shortly after, a party of citizens, numbering twelve or fifteen, who had been secreted behind a house and fence on the highway, rushed across the road in front of Lieutenant Pritchett and his party, levelled their guns and demanded their surrender. At the time the Lieutenant had with him only two men. As the citizens represented themselves to be officers of the law, he surrendered, and was held for two hours as a prisoner until a magistrate, who had been sent for, could arrive. A warrant was then issued for their arrest, which was made returnable before Justice Lawrence, of that precinct.

In his report of the affair, Lieutenant Pritchett proceeds as follows:

"By this time myself and men were thoroughly convinced that we were in possession of an infuriated *mob*, and were arrested by irresponsible persons, who were neither officers of the law and without any authority or writ for our arrest. Upon this conviction I made affidavit that justice could not be done me in that precinct. They then made the writ returnable before Justice Booth of Hillsboro. We were carried to Hillsboro under guard of some twenty men. On reaching Hillsboro my four men sent ahead were there overtaken and arrested also. We then proceeded to trial under the charge that myself and men had forcibly entered the premises of J. J. Gathings without a search warrant. It seemed that the news had spread throughout the county of our arrest, as numbers of men

armed came in from the country while our trial was going on. During the trial the court room was filled with men *armed with shot-guns and six-shooters*. There was intense excitement during the whole trial. At the conclusion of the trial the justice placed my bond at five hundred dollars for my appearance one week hence. When this was announced, J. J. Gathings, the leader of the mob, being armed, walked up to the justice's stand, and with anger and clenched fist, swore to the court that 'by God, if the bond is not made strong and substantial, I will re-arrest him and hold him until the date of his trial.' "

Lieutenant Pritchett and his men were then released, but subsequently other warrants were issued, upon the same charge, for his re-arrest.

He continues: "Affairs were becoming still more serious, as more armed men were coming in; whiskey freely drank, and myself and men threatened and insulted."

In endeavoring to leave the county, he was again arrested, but escaped.

It was Lieutenant Pritchett's impression at the time, as he states in his report, that he and his detachment were arrested in order to give the criminals, Nicholson and Gathings, an opportunity to escape, as they were but a short distance before him, and he would undoubtedly have overtaken them but for the interruption of the pursuit thus caused.

This outrage, taken in connection with the previous disregard of law evinced by the citizens of Hill county, as shown by correspondence held with this office, copies of which accompany this report, and to which your Excellency's attention has been previously invited, induced me to represent the state of affairs in that section as totally beyond the control of the civil officers of the law.

Pursuant to special orders No. 3, current series, and instructions from your Excellency, I started for Hill county on the morning of January 12, 1871. I was detained *en route*, by a very severe norther, accompanied by a terrible storm of snow and hail, and consequently did not reach Hillsboro until Sunday, the fifteenth of January.

By orders from this office, Captain E. H. Napier and his company of State guards, numbering fifty (50) men, were directed to proceed to Hill county, and reached that point some time after I had arrived.

I found affairs in confusion, officers intimidated, authority resisted, and a spirit of defiance to law extant, which the civil officers were utterly powerless to control.

In accordance with my instructions and your Excellency's procla-

mation, martial law was declared, Colonel J. M. Gibbs, Reserve Militia, placed in command, and a Provost Marshal appointed. Orders were issued for the arrest of James J. Gathings, James Gathings, Jr., Phillip Gathings, James Denmember, William L. Towner, David Gathings, George Gathings and Dr. A. M. Douglas, as leaders in the outrage against Lieutenant Pritchett and his men, which was promptly effected.

These parties were brought before me, acknowledged their participation in the outrage, and the amount of three thousand (\$3,000) dollars was assessed upon them. Of this amount, twenty-seven hundred and sixty-five (\$2,765) dollars (one thousand dollars of which was in gold) was paid over promptly by the parties assessed, and is estimated as sufficient to cover all expenses incident to the declaration of martial law in that county.

All disbursements made from this fund to the present time have been upon vouchers properly certified to, and on file in this office. Some payments have yet to be made on this account.

I deemed this manner of procedure more equitable and just to the inhabitants of Hill county generally, than an assessment upon the people at large, and my views were concurred in by the parties themselves, as stated to me.

The presiding justice of the county informed me that his decision in Lieutenant Pritchett's case was rendered upon fear of murder by the infuriated mob in the court room at the trial. Subsequently, he made affidavit that he had acted under fear of his life, which I left with Justice Lawrence, of Hill county.

The county remained under martial law for two days, when it was sufficiently quiet to turn over to the civil authorities, which was done, and the troops ordered to their homes.

This application of martial law, I am happy to say, has had the effect of rendering that county as peaceable and subservient to the laws as any other portion of the State.

I am, Governor,

Very respectfully,

Your obedient servant,

JAMES DAVIDSON,

Adjutant General,

Chief of Police, of Texas.

List of enclosures accompanying this report, filed herewith, and numbered as follows :

1. Letter from Sheriff Beauchamp, Hill county, dated September 16, 1870.
2. Dispatch from L. J. Hoffman, dated Waco, September 20, 1870.

3. Dispatch from L. J. Hoffman, dated Waco, September 21, 1870.
4. Extract from letter of John A. Purrell. dated October 3, 1870.
5. Letter from Lieut. Pritchett, State Police, dated Waco, October 14, 1870.
6. Letter of Governor of Texas to Sheriff Beauchamp, dated October 3, 1870.
7. Petition of citizens of Peoria, Hill county, dated October 23, 1870.
8. Letter from Sheriff Beauchamp, dated October 27, 1870.
9. Letter from Governor of Texas to citizens of Peoria, of November 3, 1870.
10. Letter from Lieutenant Williams, dated Lockhart, November 4, 1870.
11. Letter from W. E. Evans, dated November 9, 1870.
12. Letter from Sheriff Grace, dated Hillsboro, December 8, 1870.
13. Proclamation of Governor of Texas declaring martial law in Hill county.
14. Copy of special orders No. B and A, from this office.
15. Letter of instructions from Governor of Texas, dated January 11, 1871.

Report from Hill county :

HILLSBORO, HILL Co., Texas,
September 16, 1870.

Hon. JAMES DAVIDSON,

Chief of Police, State of Texas :
Austin, Texas :

DEAR SIR: Allow me to respectfully request that a small detachment of the State Police, say from twenty-five to thirty men, be ordered to Hillsboro, to assist me in arresting the many desperadoes that are now harbored in Hill county.

The Cox brothers, Kinch West and other murderers are banded together, and I find it impossible to secure sufficient assistance from the residents of the county to warrant me in an attempt to arrest them.

I have a very large number of *capeases* to serve for the next term of the court, and am also about to visit the various sections of the country to collect the annual taxes. I am satisfied that the

band of desperadoes will endeavor to prevent me from performing these official duties, unless I am able to secure their arrest.

Very respectfully,

[Signed]

OWEN. BEAUCHAMP,
Sheriff Hill county.

Official copy :

JAMES DAVIDSON,
Adjutant General, State of Texas.

WACO, TEXAS.

September 2, 1870.

Private Nagle was murdered in Hill county, Saturday evening, serving attachments there.

There are fourteen of them. West's party say they will not be arrested. The city will not do anything. Sheriff in same fix. I have only four men; was shot by Burcon, desperado from Louisiana. Instructions telegraphed.

[Signed]

L. J. HOFFMAN.

Official copy :

JAMES DAVIDSON,
Adjutant General, State of Texas.

NOTE.—This policeman was not murdered, but was badly wounded.

JAMES DAVIDSON,
Adjutant General.

WACO, TEXAS.

September 21, 1870.

Hill county jail attacked by West and Atchison party. A fight ensued with guard. Two killed or wounded. Sheriff sent here for help. None to send.

[Signed.]

L. J. HOFFMAN.

Official copy :

JAMES DAVIDSON,
Adjutant General, State of Texas.

HILLSBORO, TEXAS,
October 3, 1870.

To His Excellency, E. J. DAVIS,

Governor of the State of Texas :

GOVERNOR : The facts in the case are as follows : Kinch, West, the Cox Brothers, and a few others, are charged with having committed murders, are banded together and boldly defy the authorities of the county. They declare that they will not do any harm if let alone, but that they will resist with force all attempts to capture them, and die rather than be arrested. As a matter of course, the sheriff cannot, with a due regard to his oath of office, let them alone ; several attempts have been made to arrest them, but without any favorable results.

The sheriff says that he is unable to secure aid from the residents of the county to enable him to arrest these men. From my own observations, I am of the opinion that the sheriff is correct in this view. The people in the community certainly manifest a decided determination not to assist the sheriff in his efforts to bring offenders to justice—some from sympathy with the outlaws, others from personal prejudice against the sheriff, and others from ill will against the present administration of the State and all the officers friendly to the same.

The sheriff, I understand, has applied to the Adjutant General for a force to aid him in the discharge of his duties. I believe that a few resolute and determined men, stationed in this county for a short time, would enable the sheriff to secure the arrest of all these desperadoes, or else force them to flee from the county and State.

I write this, Governor, whilst in my bed from sickness, calling in one of my deputies into service as my amanuensis,

Very respectfully,

Your friend,

JOHN A. PURNELL,

[Signed.]

Official copy :

JAMES DAVIDSON,

Adjutant General of the State of Texas.

WACO, TEXAS,
October 14, 1870.

General JAMES DAVIDSON :

SIR : Your télégram and letter has been received, and in answer am very sorry to say that neither has been complied with, for this reason : I met the sheriff of Hill county at this place (Waco,) de-

livered to him the letter intrusted to my care, with the information that I was ordered to furnish him five men, who were ready to return with him to Hill county; but instead of returning immediately, he remained here three or four days, and at the end of that time refused to take the men with him, on the grounds that the number was not sufficient to accomplish that which was to be done, stating that it would require at least forty or fifty to do the work in his county.

I did not send the men, as I thought it useless to do so after he refused them, and from the orders received from you.

Very respectfully,

[Signed]

W. T. PRITCHETT,
Lieutenant State Police.

Official copy :

JAMES DAVIDSON,
Adjutant General State of Texas.

OFFICE CHIEF OF STATE POLICE,
AUSTIN, TEXAS, October 3, 1870.

E. BEAUCAMP, Esq.,

Sheriff Hill county, Hillsboro, Texas :

SIR: The State Police sent to your county to arrest Kinch, West, Cox, Mayfield, Oliver and Atchison, and their accomplices, charged with offenses in your county and McLennan county, report that their efforts to capture these criminals have been unavailing, and that they have the sympathy of the citizens towards these parties, or because the citizens were under intimidation by the outlaws. They did not co-operate with the police, but on the contrary furnished the outlaws information, and aided them in evading arrest.

On receipt of this letter, you will immediately call the citizens of the county together, or as many of them as you can notify without delay, and state to them publicly that these desperadoes having so far evaded arrest, either by the sympathy of the citizens, or because of their intimidations, I shall at the expiration of thirty (30) days from the reading of this letter, if they have not then turned out, and arrested and delivered the above named parties to the proper civil officers, send the Militia and State Guard to the county, that sufficient force will be sent and quartered in the county to secure the arrests, and martial law declared, and the expense levied upon the people of the county, or such of them as are to blame in this respect. The police report that the people of, and in the neighborhood of the village of Peoria, have made themselves most conspicuous in this

lawlessness, and I desire you to respectfully notify the people of that neighborhood of the penalty they incur.

Respectfully,

[Signed]

EDMUND J. DAVIS.

Official copy :

JAMES DAVIDSON,
Adjutant General State of Texas.

PEORIA, HILL COUNTY, TEXAS,
October 23, 1870.

WHEREAS, The Sheriff of Hill county received a letter from the Governor of the State, dated third day of October, A. D. 1870, calling upon said sheriff to convene the people of Hill county for the purpose of adopting efficient means to suppress lawlessness and crime, and arrest such persons as may be found in said county, who are openly resisting the civil authorities, and further stating that should not such means be adopted, that the county will be put under martial law.

NOW, THEREFORE, We, the people of said Hill county, in mass meeting assembled, adopt the following resolutions, to-wit :

1. That we desire most sincerely to see law and order prevail, to have peace and prosperity extend throughout the country ; that we deprecate lawlessness and crime, and pledge ourselves at any and all times, when called upon by the officers of the law, to aid and assist in arresting and bringing offenders to justice.

3. That we, in good faith, assure the Governor of the State and the civil officers of the county, that we do not desire to see criminals go at large, bidding defiance to law and the officers thereof, and the more effectually to prevent the same, and also to prevent the commission of the same, we herein tender our services at all times to them for the purpose aforesaid.

4. That we tender our thanks to the Governor for his kindness in notifying us of the representations made to him concerning the condition of the county, and also for allowing us the privilege of expressing our sentiments and desires in relation thereto.

[Signed]

J. J. GAGE.
Chairman.

Official :

JAMES DAVIDSON,
Adjutant General.

[COPY.]
 HILLSBORO, HILL COUNTY, TEXAS,
 October 27, 1870.

To his Excellency,
 EDMUND J. DAVIS,
 Governor of Texas:

SIR: Your letter of the third of October is at hand, and in reply I have to say that Kench was charged with murder and has left the county; also, the Cox boys, charged with the same offense, have also left; Mayfield, who was charged with running away with them, has come and given himself up, and gave bond. The charge was made against Mayfield, a man not in our county, and Henry Mayfield heard that the Police was after him, to hang him, so he left home and fell in with them, and when he found it was not so, he come in.

I know nothing of Stephenson. He is about home, but keeps on the dodge so I cannot see him; says he will give himself up at Waco, but do not know how that is.

I have read your letter to the citizens of Hillsboro, and also to the citizens of Peoria. They had a meeting, and I was not well, but sent the letter, and had it read at a public meeting. They say that they will arrest them. That remains to be seen. I will test them next week, or as soon as I can ride. You will hear from me on the subject. The report that Lieutenant Williams made I fully endorse, and know it to be true and correct. I do not want the county to be under martial law, but if the civil law cannot, I hope you will do it, and I have confidence in you that you will.

Yours respectfully,

[Signed]

EVIN BEAUCHAMP.

Official copy:

JAMES DAVIDSON,
 Adjutant General, State of Texas.

EXECUTIVE OFFICE,
 AUSTIN, TEXAS, November 3, 1870.

GENTLEMEN: I have to acknowledge receipt of your petition and a copy of resolutions adopted at Peoria, Hill county, in regard to lawlessness reported in Hill county, and brought me by Mr. Jenkins Davis, of Peoria.

I am glad to understand that I may have been misinformed as to the disposition of yourselves and fellow citizens. I do not at any time propose to act hastily towards the people of a county against

whom such serious charges are made. I am only desirous that law and order should be established, and believe that this purpose can best be accomplished by making my fellow citizens interested in enforcing the same. To make them feel such interest is the only motive that will ever actuate me in establishing martial law, at their expense, in any particular part of the State, and I do not propose to do so anywhere except as the last resort. I believe this necessity might exist in your county, and thus I proposed to take prompt measures, after giving you a fair opportunity to declare yourselves.

Your promptitude in coming forward induces me to think that you propose to act in good faith in support of the officers of the law, and accordingly I have suspended preparations that were being made to send troops into Hill county. A detachment of police has, however, been sent to your county, with orders to hunt down those outlaws. It is reported that they have fled your county, but I expect your assistance in ascertaining their whereabouts, as they must be brought to justice, and efforts are not to cease till they are.

Respectfully,

[Signed]

EDMUND J. DAVIS,

Governor.

Messrs. W. B. Tarver, Wm. J. Morris, J. F. Baily, James Harden and others, citizens of Hill county.

Official :

JAMES DAVIDSON,

Adjutant General of Texas.

LOCKHART, TEXAS,
November 4, 1870.

Col. JAMES DAVIDSON,

Chief of State Police :

SIR : In compliance with communication from your office of November 1, I make the following report of my operation in Hill county, under orders from your office of date of September 23, 1870 :

I arrived at Hillsboro, Hill county, Texas, on the morning of the twenty-eighth of September, with the two sergeants and thirteen privates of police force. I remained there several hours in order to consult with the sheriff and other officers of the county as to the names and places of retreat of the desperadoes and outlaws of that county. The desired information was rendered by Mr. Beauchamp, sheriff of Hill county, and Mr. Purnell, an officer of that county. After obtaining all necessary information, I proceeded with my detachment and the sheriff of the county, to Peoria, where I expected

to find the Kinch-West klan, as they were seen there the day previous, fourteen in number. I scouted the country in the vicinity of Peoria, but there was none of the klan to be found, as they had received information from Waco that I was on my way to Hill county to arrest them. On the morning of the twenty-ninth I surrounded the residence of Kinch West and two of the Coxes, and while searching the premises I was attacked by Kinch West, the two Coxes and one Mayfield, who had come from the cross timbers. I returned fire upon them and ordered my force to charge them, and demanded their surrender. We chased them about four miles into the cross timber, where we lost sight of them, and as they knew the country well and their horses fresh, it was entirely useless to make further chase. I was advised by the sheriff that it was useless to remain any longer as the parties could not be found and arrested while they were on the lookout for us. I then returned to Waco, where I ordered my force to return to their proper stations.

Respectfully,

[Signed]

THOMAS WILLIAMS,
Lieutenant State Police.

Official copy :

JAMES DAVIDSON,
Adjutant General, State of Texas.

HILLSBORO, TEXAS,
November 9, 1870.

General JAMES DAVIDSON,
Chief of Police,
Austin, Texas :

SIR: Lieut. Pritchett has relieved me from command of the detachment of police now operating in this county, and I have the honor to report my actions while on duty here, as instructed from office of Chief of Police under date of October 11, 1870.

Acting under orders received by Lieut. Prichett from Chief of Police, I left Waco October 29, with five men, and shortly after my arrival, arrested Wm. Hutchinson and conveyed him to Waco, where his offense was committed.

Since then I have arrested the following named persons and turned them over to the sheriff, viz :

Henry Mayfield, for aiding and abetting men in crime and lawlessness.

B. H. Fergerson, for murder.

Jack Mitchell, for murder (killed while resisting arrest.)

Payton Bevins, for aiding prisoners to escape.

Joseph Elliott, for wearing arms at public assembly.

I called upon Mitchell to surrender; he refused to do so, and drew his revolver. I fired and wounded him. He still refused to surrender, and attempted to shoot, when my men riddled him with bullets.

Mitchell Fergerson and several others are indicted for the murder of two brothers by the name of George. Both were Union men. After the killing of Mitchell my force was not strong enough to arrest the accomplices of these men, and I propose to remain with Lieut. Pritchett until we can attend to them.

Very respectfully,

[Signed]

WM. E. EVANS.

Official copy :

JAMES DAVIDSON,
Adjutant General State of Texas.

HILLSBORO, TEXAS,
December 8, 1870.

Gen. DAVIDSON,

Austin :

DEAR SIR: On the night of the seventh instant our county jail was broken open, and one Samuel Stutts, confined in it, set at liberty. He was charged with the murder of one — Sed, of this county, but is himself a citizen of Dallas county. I am and have been making diligent inquiry and search since his escape, and write this that you may have the police force on the alert and secure his arrest. I cannot get any trace of him as yet.

[Signed]

J. P. GRACE,
Sheriff of H. C.

Official copy :

JAMES DAVIDSON,
Adjutant General State of Texas.

PROCLAMATION,

BY THE GOVERNOR OF THE STATE OF TEXAS.

To all to whom these presents shall come :

WHEREAS, It has been made known to me, that there exists in the county of Hill, in said State, a combination of lawless men, who

have been guilty of various outrages against the peace and dignity of said State, and that said combination is too strong to be controlled by the civil authorities of said county,

Now, therefore I, Edmund J. Davis, Governor of the State of Texas, by virtue of the authority vested in me by the Constitution and laws of said State, do hereby declare and proclaim martial law, and suspend the laws in said county of Hill, until such time as the Legislature shall take such action in the premises as it may deem necessary, or until this proclamation is otherwise revoked.

In testimony whereof, I have hereunto signed my name [SEAL] and have caused the great seal of the State to be affixed, at the city of Austin, this tenth day of January, A. D. 1871, and of the independence of Texas, the thirty-fifth.

[Signed] EDMUND J. DAVIS,

J. E. OLDRIGHT,
Acting Secretary of State.

A true copy :

JAMES DAVIDSON,
Adjutant General State of Texas.

ADJUTANT GENERAL'S OFFICE,
STATE OF TEXAS,
AUSTIN, January 11, 1871.

Special Orders, No. 3.

(EXTRACT.)

I * * * Colonel James Davidson, Adjutant General and Chief of Police of Texas, will proceed without delay, under special instructions, to Hill county, Texas.

[Signed] EDMUND J. DAVIS,
Governor and Commander-in-Chief.

Official :

JAMES DAVIDSON,
Adjutant General of Texas.

ADJUTANT GENERAL'S OFFICE,
STATE OF TEXAS,
AUSTIN, January 11, 1871.

Colonel JAMES DAVIDSON,
Adjutant General of Texas,
Austin, Texas :

COLONEL : In obedience to Special Orders No. 3, current series, from this office, you will at once proceed to Hill county, Texas.

• Upon your arrival at that point, you will issue and publish the Proclamation of Martial Law; which has been signed and placed in your hands, or reserve the same as may seem best after you arrive at the scene of disturbance.

You will assess the amount of expenses incurred, either upon the county, or upon the parties implicated in the recent outrages, as may be deemed most expedient; and authority is granted you to convene General Courts Martial, to include not less than three officers, of whom one must be a field officer, for the trial of the offenders, should you determine that justice can be better subserved in that manner than by trial before the civil courts.

It is desired that your action should be as prompt as possible, and the whole matter disposed of without delay, so that the troops may return to their homes.

But it is also desirable that a strong squad of Police be left in that District of country under a good officer, with orders to hunt down and bring to justice all offenders.

(Signed) Respectfully,
EDMUND J. DAVIS,
Governor, and Commander-in-Chief of Texas.

A true copy:
JAMES DAVIDSON,
Adjutant General of Texas.

A.

AUSTIN, TEXAS,
January 26, 1871.

Report from Walker county :
To His Excellency,
Gov. E. J. DAVIS:

SIR: As the District Attorney of the 30th Judicial District of Texas, I have the honor to submit the following report :

On the 11th of this month, in the town of Huntsville, Walker county, four prisoners, Nat. Outlaw, Jo. Wright, Fred. Parks and Jno. McParrish, were brought before Judge Burnett, charged with the murder of Sam. Jenkins, a colored man, on the fifth of December.

The arrests had been made by Capt. McNally, of the police force, and by him turned over to the sheriff of the county. Messrs. Baker, Maxey and Hightower were the attorneys for the defendants. I represented the State. During the trial, which lasted three days in the examination of the witnesses for the State and for the defendants, there was much excitement manifested by the friends of the prisoners, and threats were made that the prisoners should not go to jail if committed.

All the evidence was reduced to writing, and after argument of counsel, the court, in a written opinion, after reflecting upon the threats and warnings of assassination and intimidation of the court, declared it to be the opinion of the court that three of the prisoners, Jo. Wright, Jno. McParrish and Nat. Outlaw, were guilty of the offense charged.

The prisoner, Parks, was discharged from custody, and Captain McNally was ordered by the Court to take the other prisoners to jail: there to await the next term of the District Court.

The prisoners in the meantime, who through the aid of their friends outside and inside the court room, had concealed upon their persons at least two six-shooters each, and immediately began to fire upon the officers.

Capt. McNally was shot down. One of his policemen, Tom Kezee, was also wounded; the ball taking effect in the face and passing around the neck. Both of these officers, however, continued to fire upon the prisoners until two of them succeeded in making their escape from the court room: both, however, wounded. On the street the two prisoners who escaped were met by their confederates, who, armed with shot guns, were in such force as to prevent any further attempt to arrest them. Mounted upon horses, shooting off their pistols and yelling like savages, the prisoners, followed by their friends, made their escape from the town. Captain McNally, ordered the sheriff to summon a posse to pursue the prisoners, but he made a written report that only two citizens could be found who were willing to aid in their capture.

Two policemen who were at the base of the stairs, leading up into the court room, when the first shot was fired, were prevented from giving any assistance by confederates of the prisoners, who with pistols presented and cocked, were threatened with immediate

death, if they attempted to move. Thirty or forty shots were fired in the court room and several shots in the streets.

Judge Burnett and District Attorney, Harne, were both shot at, and the night after, an attempt was made to assassinate the Judge. The party to this attempt was one Stewart, ex-sheriff, and an active aider and abettor in the conspiracy to murder the officers of the court, and to secure the escape of the prisoners.

It is impossible at this writing to give you the names of all those who are liable to arrest. When you give such protection as will make the witness feel secure, then it will not be difficult to ascertain most all the parties, and I will take pleasure in prosecuting, if you will also protect the court from assassination.

At the time of my leaving Huntsville, I had information that the prisoners were guarded by thirty or forty well armed friends, who defied arrest and threatened death to Captain McNally at all hazards. There were so many sympathizers and aiders in the escape that I prefer stating who were not, in justice to the few who did not in any way give them aid or comfort.

Judge J. N. Barton, Colonel Abercombie, Sanford Gibbs, Magruder Winn, Dr. Rawlins, Mr. Bush, of Rawlins & Co., Mr. Kelly, County Commissioner.

There was no excuse for the first act—a cold-blooded murder and assassination of a poor old freedman, and certainly nothing in extenuation of the last attempt to shoot down the officers of the court, for no advantage was taken of the prisoners by the State. They had able counsel, and many friends who were willing witnesses, yet the evidence against Outlaw, McParrish and Jo. Wright, after an impartial trial, was of such a character as to warrant their commitment by the court, without bail, and despite the efforts of their learned, zealous and over-active counsel to create the impression that a great judicial wrong was perpetrated, even now public opinion, slowly forming, points to McParrish, Wright and Outlaw as the murderers and assassins of Sam Jenkins.

Very respectfully,

[Signed.

W. E. HORNE,

District Attorney Thirtieth Judicial District.

A true copy :

JAMES DAVIDSON,

Adjutant General of Texas.

B.

HUNTSVILLE,
January 12, 1871

His Excellency,

Gov. EDMUND J. DAVIS:

DEAR GOVERNOR: The civil authorities here were attacked yesterday, in the court house, by the prisoners John McParrish, Jo. Wright and Nat. Outlaw, charged with the murder of Sam Jenkins, in this county, on the fifth day of December last, and who were refused bail by me after a full and thorough examination, as the proof was evident to my mind of their guilt. Immediately after I rendered my decision, and handed Captain McNally the warrant of commitment, I left the court room, not at that time anticipating any trouble, but as I had got near the hotel where I am boarding, I heard the firing of pistols in the court room, and soon after others in the street. Outlaw was disarmed by Captain McNally, and immediately Wright and Parish commenced firing. McNally, Kezee, Martin and Dunn, of the police, who were present, returned the fire. Parish was shot in his right hand, and Wright in the leg and perhaps in the body, and made good their escape, at least so far. Outlaw was taken to the penitentiary, where he now is. Captain McNally was shot in the leg, but only a flesh wound, and he will be up in a few days. Mr. Kezee was shot in the jaw, and is doing well. His wound is a severe but not dangerous one. The prisoners were armed, and Outlaw and Wright were being searched when the firing began. They had been in charge of Mr. Hess, the sheriff, and some guard, who say they had no arms when they were first taken to the court room yesterday morning; and if this be true, they were furnished with arms by their friends, which is probable, as they had quite a number on hand throughout the investigation. I believe Mr. Hess is an honest man, but his carelessness in this case has caused me to remove him. He has not the necessary qualifications for the position. Mr. Butler is here, and will enter upon the discharge of his duties at once, at least on Monday, when his bond will be approved. He (Butler) had his arm sprained, if not broken, in the melee yesterday.

District Attorney Horne (who, by the way, deserves credit for the able manner in which he prosecuted the case) was, he thinks, shot at once or twice while outside the court house, and I am sure I was shot at once on the street. Being unarmed, we could not return the fires.

Parish and Wright are, I learn, still in this county, and probably not far from Huntsville; but they are strongly guarded by their friends who hope to prevent their arrest until they are able to make

good their escape. The civil authorities, I regret to say, are unable for the present to execute the laws, but Capt. McNally thinks he will be able to arrest the escaped prisoners as well as those who have aided them, in a day or so. Just as soon as we have a sufficient force I purpose making a thorough investigation of the whole affair, and use every means to bring the guilty parties to justice. It seems that the attack on the police was premeditated, and aided by the friends of the prisoners. The few citizens here who sympathize with our efforts in vindicating the laws are entirely too negative, and they afford us but little moral support.

The policemen did all they could, and they stood up manfully. But the lawless men and their sympathizers outnumbered them, as well as the other civil officers, fully five to one. Capt. McNally is a brave and thoroughly reliable officer. He only lacked a sufficient force, but I trust he will soon have this.

I ordered the prisoners to jail, but in view of its insecurity, Outlaw was taken to the penitentiary. Threats of his rescue were made last night, but no intention manifested of carrying them into execution. The penitentiary is strongly guarded and will not be successfully attacked. It is thought the main body of the friends of the prisoners are with Parish and Wright.

In view of the utter insecurity of the county jail, I respectfully suggest that you order that the prisoners be placed in the State Penitentiary for safe-keeping. This has been done here by judicial officers, but I doubt whether such authority is granted to me, except perhaps in cases of emergency. *Telegraphing*

We had telegrams to you and Gen. Davidson in the telegraph office yesterday evening, but the wires were cut by the lawless band. I wrote to Mr. Gibbs to telegraph you from Navasota. I look for Gibbs here to-night with a squad of reliable citizens.

One of the parties arrested (Parks) was discharged, as it was shown that he had nothing to do with the murder. The fourth guilty party is known, and will be arrested. Will telegraph you if there be any further trouble. I do not as yet advise a resort to the extreme penalty of the law on the people of this county, but suggest that a company of reliable policemen, say twenty, be ordered here at once. The people must be taught that we live under a government of law, and not that of a mob.

As to my decision in the case, I was clearly satisfied of its correctness, and conscientiously believing the parties to be guilty, I could not conscientiously admit them to bail or discharge them. The murder was a cold blooded and heartless one, and perpetrated without any alleviation or excuse. I feel confident the Supreme Court would affirm my decision.

The attorneys for the defendants (at least one of them) almost appealed to and roused the prejudices and passions of the mob. His explanation is, as I understand, that he thought that the prisoners were to be remanded to jail, not in accordance with the law and evidence, but in obedience to your instructions, or those of a secret conclave! You see what a low, mean, contemptible spirit the loyal officers of the State have to contend against. They must place their consciences in the keeping of bigoted, vindictive enemies of the government, or be charged with being the tools of others. But this is the only instance I have met with in this district, and trust it will be the last. I only mention it in justification of myself, and not by way of complaint, and with the exception of the difficulty here, I have met with no resistance or disrespect from the people or members of the bar, who have generally shown every respect for the enforcement of the laws, and to my position.

With high esteem I remain,

Very truly yours,

[Signed]

J. R. BURNETT.

C.

HUNTSVILLE, January 17, 1871.

Gov. EDMUND J. DAVIS,

Austin:

DEAR GOVERNOR: Since I wrote you on the twelfth, no reinforcements have arrived, and I regret to say the civil authorities are still unable to cope with the lawless men in our midst. But we hope to be able to arrest the parties who aided the prisoners to escape, as well as to re-arrest the prisoners themselves, in a day or two. Captain McNally will be able for duty to-morrow or next day. He keeps his few men here actively on the alert, and is determined to break up the lawless element here, and bring the offenders to justice. From prudential considerations, it was deemed best not to call out the State Guard, which is composed of colored men, but if it shall become necessary, this force will be called in aid. The main difficulty is, this company is unarmed, and it is not an easy matter to procure arms, except from the few loyal men who have them. With a reliable police force of twenty-five or thirty men, I think we will be masters of the situation. The two escaped prisoners are severely wounded, and they are still in this county, guarded by some thirty or forty of their friends, who are strongly armed, and say that they cannot be taken. There are a few lawless men about town, and I learn threats have been made to assassinate me. One demonstration was made by ex-sheriff Stewart in this direction, the other night,

and it is said he was supported by three or four men of like ilk. There are quite a number of citizens here who secretly oppose these outrages, but very few who openly denounce them. Two prominent citizens (Col. Watkins and Mr. Magruder Wynne) tried to get up a public meeting to denounce the attack on the civil authorities, but they failed.

Just as soon as a sufficient force arrives, you may expect the law to be re-asserted in this county. I propose making a thorough investigation of the whole affair.

* * * * *

Very truly yours,

[Signed]

J. R. BURNETT.

D.

EXECUTIVE OFFICE,
AUSTIN, January 20, 1871.

DEAR SIR: Your communication of the twelfth inst., has been received, giving an account of the late riot at Huntsville.

The matter you refer to, I have already heard something of by telegraph. I am preparing to regulate affairs in the county of Walker, as you will see shortly. I am fully satisfied with your course there as judge, and intend to sustain you.

You are authorized to inform the citizens of Walker county, that these outrages that have taken place, will bring upon them severe expense and retribution as well as injury to the reputation and prosperity of the county.

Respectfully,

[Signed]

EDMUND J. DAVIS,
Governor.

Hon. J. R. BURNETT,
Judge of Thirtieth District, Huntsville, Texas.

E.

ANDERSON, February 6, 1871.

Gov. E. J. DAVIS:

Col. Gibbs did not have force sufficient to carry out instructions. He could not rally sufficient number of militia. It is supposed that prisoners are still in the country. Nothing late from McNally, who thought he was on their track. Opened court here to-day.

[Signed]

J. R. BURNETT,
Judge.

Official:

JAMES DAVIDSON,
Adjutant General.

F.
(TELEGRAM.)

AUSTIN, TEXAS,
February 7, 1871.

Hon. J. R. BURNETT,
Judge of District Court:

Anderson, Grimes county, Texas:

Martial law will be declared in Walker county, and cost assessed upon the people. Militia who refused to obey orders will be punished. Col. Gibbs has not acted with the decision expected.

[Signed]

EDMUND J. DAVIS,
Governor.

Official copy:

JAMES DAVIDSON,
Adjutant General.

G.
(TELEGRAM.)

NAVASOTA, Grimes county,
February 7, 1871.

Governor E. J. DAVIS:

I never fail to obey orders, if possible. I cannot quell rebellion without assistance. Courier will explain all.

[Signed]

J. M. GIBBS,
Colonel 4th Regiment.

Official:

JAMES DAVIDSON,
Adjutant General of Texas.

The President announced the following communication from the Adjutant General:

Reading called for, as follows:

ADJUTANT GENERAL'S OFFICE,
STATE OF TEXAS,
AUSTIN, February 9, 1871.

Hon. DON CAMPBELL,

President of the Senate, Austin, Texas,

SIR: I have the honor to acknowledge receipt of Resolution of the Senate of Texas, calling upon me for "all the facts and circumstances connected with my late official visit to Hill county," &c., &c., passed February 7, 1871.

In reply I have the honor to invite attention to my official report, dated February 1, 1871, to His Excellency, the Governor of Texas, which has this day been forwarded to your honorable body, and in which is embraced all the information desired.

Very respectfully, your obedient servant,
JAMES DAVIDSON,

Adjutant General and Chief of Police of Texas.

Senator Parsons moved that the message of the Governor, with accompanying documents, be referred to the Committee on Militia, and 500 copies be printed for the use of the Senate.

Senator Pickett moved that the whole matter be referred to a select committee.

Lost.

The question recurring on the motion of Senator Parsons, to refer to the Committee on Militia and to print 500 copies, the yeas and nays were called for and carried by the following vote :

Yeas—Baker, Bell, Ford, Fountain, Gaines, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Pridgen, Rawson, Ruby, Saylor, Mr. President—15.

Nays—Bowers, Braughton, Clark, Cole, Dillard, Dohoney, Douglass, Evans, Flanagan, Latimer, Pickett, Pyle, Shannon—13.

Special message from the Governor by his Private Secretary, as follows :

EXECUTIVE OFFICE,
AUSTIN, February 6, 1871.

To the honorable Senate, State of Texas :

GENTLEMEN : I respectfully ask the advice and consent of your honorable body to the following appointments, viz : J. E. Carlton, Notary Public for Jasper county; W. N. Bryant, Notary Public for Marion county.

Very respectfully,
EDMUND J. DAVIS,
Governor.

Read and referred to Committee on Nominations.

Senator Flanagan moved that Senator Parsons be added to the Committee on Militia.

Lost.

The hour having arrived for the consideration of the special order, Senate bill No. 7, "An act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvement."

Bill read second time.

On motion of Senator Fountain, the Senate went into Committee of the Whole, to consider Senate bill No. 7.

IN SENATE.

Senator Fountain Chairman of the Committee of the Whole, having under consideration Senate bill No. 7, reported progress, and asked leave to sit again to-morrow at 1 o'clock, P. M.

On motion of Senator Parsons, the report was received, and leave granted.

REPORTS OF STANDING COMMITTEES.

Reports of Committee on Internal Improvements:

COMMITTEE ROOM,
AUSTIN, February 8, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred Senate bill No. 112, entitled "An act for the relief of the Eastern Texas Railroad Company," beg leave to report, that they had the same under consideration, and respectfully recommend its passage.

WEBSTER FLANAGAN,
Chairman.

Report read and laid over under the rules.

COMMITTEE ROOM,
AUSTIN, February 8, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred Senate bill No. 110, entitled "An act to incorporate the Rusk and Harrison County Railroad Company," beg leave to report that they have carefully examined the same and most respectfully ask that it do pass.

WEBSTER FLANAGAN,
Chairman.

Report read and laid over under the rules.

COMMITTEE ROOM,
AUSTIN, February 8, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred Senate bill No. 74, entitled "An act for the relief of certain assignees of the Buffalo Bayou, Brazos and Colorado Railroad Company," beg leave to report back the same, for the action of the Senate and that the Senator who presented the bill be allowed to withdraw it.

WEBSTER FLANAGAN,
Chairman.

On motion of Senator Flanagan, the rules were suspended and the report of the committee adopted.

Report of Committee on Roads, Bridges and Ferries :

COMMITTEE ROOM,
AUSTIN, February 9, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on Roads, Bridges and Ferries, to whom was referred Senate bill No. 122, entitled " An act to incorporate the Excelsior Bridge and Turnpike Company," having had the same under consideration, beg leave to report back the same and respectfully recommend its passage.

J. G. BELL,
Chairman.

Report read, and laid over under the rules.

Senator Gaines presented the following minority report of Committee on Privileges and Elections :

COMMITTEE ROOM,
AUSTIN, February 7, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : The minority of your Committee on Privileges and Elections beg leave to make the following minority report on the resolution referred to them, declaring that the election of the present incumbent of Sergeant-at-Arms is " unauthorized by law and in violation of the Constitution." The majority of the committee report that they are not prepared to pass upon the law of the case, but resolve that " the office of Sergeant-at-Arms be declared vacant."

This is a clear evasion of the law point submitted ; for if the majority of the committee do decide that the election of the present Sergeant-at-Arms was without warrant of law, and a violation of the Constitution, then it follows that every officer of this Senate who was elected at the same time, was also elected without warrant of law and in violation of the Constitution.

Now, as to the authority of this Senate to elect its own officers, we have the warrant of Section XV, of Article 3, of the Constitution. We hold that if there was no subsequent law, directly authorizing the discharge of officers, and the election, at any time, of new ones, that it is a sound principle of law that the power to appoint involves the power to remove ; but we are not without warrant of law, for Section XVI of the same article authorizes each house to determine the rules of its own proceedings, under which the Senate adopted Rule IX, that the offices of the Senate, including the Ser-

geant-at-Arms, shall be elected at the first session, "to continue in office until discharged by order of the Senate."

These points cover the legal question submitted to us, which virtually declares that all the officers of this Senate now elected, are and were so elected without warrant of law and in violation of the Constitution.

This attack, if successful, is the entering wedge to remove every officer of the Senate on the same falsely assumed legal grounds, and we protest against the action of the majority of the committee in passing the legal question thus involved, yet resolving that the office be declared vacant, thereby unqualifiedly admitting and asserting that all the present officers of the Senate are now illegally holding their positions. The minority of your committee, therefore, beg leave to report the following resolution and recommend its adoption, and that the Senate do reject the resolution referred to them for consideration :

Respectfully,

M. GAINES,
THEO. HERTZBERG.

Resolved, That the present Sergeant-at-Arms now in office, hold his office for the time being.

Report read and laid over under the rules.

On motion of Senator Saylor the Senate adjourned to 11 A. M., to-morrow.
